



CASE REPORT

1. Complaint reference number	541/09
2. Advertiser	Wrigley
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Food and Beverage Code – untruthful/dishonest
6. Date of determination	Wednesday, 25 November 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a simulation of a scientific laboratory where a scientist is demonstrating the effects of plaque from consuming certain foods. The foods are animated and the advertisement depicts a cup of coffee, a donut, banana, a packet of chips, popcorn, sushi and a soft drink. The scientist says, "they look cute, but they are really nasty little ... that cause plaque". The donut is shown to be painting "plaque" onto teeth. "Dentists recommend chewing Extra, sugar free gum after eating and drinking - lets see how they like this". The scientist then shows a simulated clinical test whereby a man consumes the Extra gum and the foods run away, "Pretty conclusive really."

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Complaint against Wrigley's Chewing Gum TVC on health grounds.

I wish to lodge a complaint against a television commercial advertising Wrigley's Extra chewing gum which Horticulture Australia sincerely believes contravenes the AANA's Advertising Code of Ethics on health grounds.

The advertisement uses a number of animated food items communicating that they are harmful to the dental health of Australians because they are responsible for the production of tooth decay causing plaque. Among the foods depicted is a banana which is the reason for this complaint.

For years Australian banana growers have committed significant funds to communicate the genuine health benefits of bananas, with the current wave of communications aimed at encouraging consumers to choose a banana as a snack food because of their many health and nutritional benefits.

All the industry's health and nutrition communications are issued with endorsement from an Accredited Dietitian and are based on credible research.

The subject advertisement communicates that bananas are dangerous to dental health, when in fact there are many other foods that are far worse plaque-causing culprits. While it is acknowledged that all foods can leave residues in the mouth that can cause plaque, a banana can be flushed from the mouth far easier than most foods, but this is far from the communication created by this commercial. The commercial labels bananas as bad as other foods like iced donuts.

I therefore request that the subject advertisement be examined and assessed by the Advertising Standards Board with a view to it being withdrawn or amended.

Earlier, Horticulture Australia formally communicated its concerns to Wrigley's with no response.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

The Wrigley's EXTRA® 'Food Creatures' campaign was launched in 2007. The insight behind the campaign was that people consume a variety of food and drink throughout the day, without the opportunity to brush after consumption to remove plaque-causing carbohydrate and food remnants, as is recommended by dental professionals. Subsequently, the food & drink remnants stay in your mouth building up and "following you about" as you progress through the day – creating the plaque acids that potentially cause oral health issues.

The strategic solution was that in the situations where you can't brush, EXTRA® is the antidote to the 'Food Creatures' that can harm your teeth. The creative idea communicates that EXTRA® helps get rid of the food and drink that follow you around in-between brushings. Out of this strategy the 'Food Creatures' (as they are now known) were born. The 'Food Creatures' are a metaphor for the food and drink that people commonly put in their mouths each day, which if not dealt with via an appropriate oral healthcare régime can cause plaque. EXTRA® is recognised and endorsed by the Professional dental community as part of a good daily régime and a complement to other good oral hygiene practices which include brushing, flossing and a healthy diet.

As stated, the 'Food Creatures' (that have been used over the last 2 ½ years of this campaign) are a metaphor for foods commonly eaten through the day. Through the campaign we have used a number of common food and drink items including an iced donut, coffee, a banana, a slice of pizza, a raspberry, sushi, a packet of chips and a soft drink. These characters are intended as a generalized representation of 'food and drink' consumed throughout the day, not as a commentary on the nutritive values or health benefits of these items.

The latest EXTRA® television commercial which aired in 2009 is a continuation of this strategy, with a new claim of 'Dentists recommend chewing EXTRA® after eating and drinking'. This claim is supported by local research (conducted by Colmar Brunton in May 2009) to ensure that the claim is legally suitable for use in both Australia and New Zealand. In addition, the use of sugar free gum is recommended by the FDI (Fédération Dentaire Internationale: The World Dental Federation) and the Australian and New Zealand Dental Associations. The FDI logo appears on all packs of Extra® gum with the text "Chewing sugarfree gum, like Wrigley's Extra® is proven to benefit dental health".

In addition to the claim 'Dentists recommend chewing EXTRA® after eating and drinking', the TVC makes reference to the 'Food Creatures' causing plaque. More specifically, the line states that 'They might look cute, but they're really nasty little things that can cause plaque'. It is a known fact - based on substantial clinical research over many years – that consumption of food, particularly food high in carbohydrate - can cause plaque. Foods or drinks high in acid can also cause dental erosion. Since it is a fact of life that we all have to eat & drink, it is recommended that we keep our mouths as clean as possible after doing so in order to maximise our chance for good long term dental health. Hence the role of Extra® sugar free gum in circumstances when you can't brush.

The clinical evidence

Multiple studies on the dental health benefits of sugar free gum have been conducted by world-recognised and world-respected scientists using clinically accepted protocols and techniques. Their results over the decades have been published in peer-reviewed journals and accepted by dental communities across the world. The evidence clearly justifies the validity of the claim "Chewing Wrigley's EXTRA® Sugarfree Gum helps wipe away plaque" and supports the latest claim that 'Dentists recommend chewing EXTRA® after eating and drinking'.

In summary, the act of chewing sugar free gum stimulates the production of saliva to help wash away food debris and neutralise plaque acid in the mouth .

For ease of reference, Wrigley has collated a booklet of the clinical studies detailing the oral health benefits of sugar free gum. This booklet entitled 'A Clinical Overview' is intended as a communication for a professional dental audience, but we provide a soft copy to you for your reference (available from ASB). We recently mailed this up-dated copy of 'A Clinical Overview' to the 8,000 dental professional in Australia. We also provide consumer brochures to the dental community for use with their patients – and a copy of this brochure is also attached for your reference.

Further details of the Wrigley Oral HealthCare Program and clinical studies are also available for

your review should you need further reference. Please let us know if any other information is needed.

The Extra® advertisement (and bananas)

The studies supporting the claims made in our Extra® campaign are highly technical. The findings need to be communicated using simple language and in an accurate but engaging manner in order for consumers to understand the benefits of chewing Extra® sugar free gum. The metaphor of the food creatures following consumers around through the day and spray painting teeth with plaque then running away when the consumer chews gum is an accurate, engaging metaphor for the action/benefit of the gum.

Bananas are indeed healthy nutritionally and the banana character is positively represented as engaging & full of personality. As a food, albeit a nutritionally sound one, bananas can play a role in promoting the creation of dental plaque, just like all other foods. Bananas contain a mixture of starch, carbohydrates and sugars (at varying levels along the ripening process) that can all contribute to causing plaque on teeth if a suitable oral hygiene régime is not carried out. Other “healthy” foods are also well-documented to cause damage to teeth including acid based drinks like fruit juices. Refer to the current TV campaign for Colgate (Sensitive Enamel Protect) which educates consumers that fruits (such as tomatoes and oranges) can cause enamel erosion, and by using enamel-protecting toothpaste you can help prevent this damage. This, like the Food Creature campaign, is an indicative example rather than a specific reference to the foods shown.

The television commercial in question is grounded in solid fact and therefore we do not view it as being in breach of the AANA’s Code. The code clearly states that the communication must be “truthful and honest, shall not be or be designed to be misleading or deceptive... and shall be communicated in a manner appropriate to the level of understanding of the target audience”. It is our firm belief that the communication in question addresses the intent of the Code completely.

To further support this sentiment, qualitative research done on the campaign over the last 3 years (Ipsos 2007, Stent Research 2008) strongly supports that consumers understand the relationship between the food and drink consumed (the Food Creatures) and the link to oral health, and do not take the characters as an indication on the ‘healthiness’ of the product.

The focus of this campaign is to communicate the oral care benefits of chewing EXTRA® after eating and drinking, and makes no effort to comment or disparage any food or drink on its nutritional or health values. As a result we feel strongly that the current representation of foods consumed is fair, and are therefore requesting that the board make its decision based on the evidence provided in this response.

At this point I would like to say that we were surprised to receive a complaint of this nature more the 2 years into the campaign (with the Banana character prominent in each execution) and whilst we have responded via due process to the Advertising Standards Board on this matter we have concerns that prior to and in addition to submitting this complaint, Horticulture Australia Ltd have taken their “case” to the mass media (via newspaper and online) airing their concerns. We believe they have misrepresented our company with the intent to cause damage to the good will of our brand and our business. In this respect we believe that HAL has breached the AANA Code of Ethics. We have replied directly to their initial letter to the Wrigley Company with our position and this has also made its way to the media prior to our position being supplied to the ASB for its consideration.

We are of course more than willing to provide any other additional information or substantiation that may be required to make a decision on this case.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the “Code”) and the AANA Food and Beverages Advertising and Marketing Communications Code (the “F & B Code”).

The Board noted the complainant's concern, that the advertisement depicts a piece of fruit, a banana, as one of the types of foods that cause tooth decay and that there are many other types of foods which are far greater in terms of causative effects of tooth decay.

The Board noted the advertiser's response that the advertisement depicts foods that are commonly eaten throughout the day and that the advertisement did not specifically focus on the banana as a culprit food and that the advertisement was not represented as a commentary on the nutritional values or

health benefits of the foods.

The Board noted that the advertiser mentioned that the complaint has also been taken to the media and that their determination of this matter, required a detailed response which may be of assistance to those concerned.

In considering whether the advertisement was in breach of the Code and the F & B Code, the Board referred to section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted that the term '*prevailing community standards*' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted the explanatory notes to the Food Code prepared by AANA which, in relation to section 2.1, provide:

Section 2.1

The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that advertisements and/or marketing communications should be truthful and honest, the Board will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest.

In testing the requirement that advertisements and/or marketing communications should not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Board will consider the advertiser's stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

Thus, advertising and/or marketing communications may make reference to one or more of the nutritional values and/or health benefits of a product but such references must be accurate and appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product.

Some complaints made under this Code that the Board is better able to determine under the broader aspects of the AANA Code of Ethics will be considered under that Code e.g. (complaints about matters such as 'taste and decency', language, sex and violence).

The Board then considered section 2.1 of the Code and noted that section 2.1 requires it to consider whether an advertisement is truthful and honest or is misleading, or is designed to be, misleading or deceptive.

The Board noted that its role is different from the role of the court or the ACCC and that it is not for the Board to see itself in the position of the court. The Board has a special role given the broad principles in the various Codes and its role as set out in the provisions of the Codes and other sources such as the Food and Beverage Practice Note. The Board reflects community standards and expectations and these necessarily change over time. Its task is to deal with complaints. By upholding or rejecting a complaint, it determines whether the community considers an advertisement acceptable or not. In this way, it provides guidance to advertisers and assists in maintenance of confidence in

advertising. The Board's task, as properly understood, is not to reflect on or speculate about what a court would do if the advertisements were the subject of an allegation of Trade Practices Act breach nor to reach a legal opinion. Rather, the task is to reflect the community's attitude - to assess whether the advertisements meet current community expectations for truthfulness given what the advertisements convey to ordinary consumers and in light of the relevant circumstances and given the grounds of the complaint.

The Board considered that the advertisement does not make any specific health claims. The Board considered the depiction in the advertisement of a number of foods as 'nasty little critters' was clearly described as being foods that contribute to plaque. The Board considered that most members of the community would understand that the advertisement was promoting Extra chewing gum as a way of reducing the causative effects of plaque. The Board considered that the ad was not sending a message to the public that bananas are a poor food choice or should be avoided only that they, like most other foods, can contribute to plaque and that consumption of Extra (the product) is recommended after consumption. The Board considered that the community would not consider that the advertisement is recommending that bananas not be eaten or that they are a poor food choice. The Board determined that the advertisement did not breach section 2.1 of the F & B Code.

The Board also noted comments in the advertisement that dentists recommend consumption of sugar free chewing gum after eating and drinking. The Board noted that the Australian Dental Association and a number of State Health Departments refer to consumption of sugar free gum as a way of reducing dental caries (through saliva production) and that this appears to be a reasonably acceptable position in the community. Based on evidence provided the Board considered that the suggestion that consuming the product will assist in reducing plaque is not unreasonable and not misleading or deceptive.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.